

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

ANTONIO CROSBY,

*

Plaintiff,

*

v.

CIVIL NO. JKB-21-0078

OFFICER CODY GILPIN,

*

Defendant.

*

* * * * *

MEMORANDUM AND ORDER

This matter was recently assigned to the undersigned. Pending before the Court is Defendant Cody Gilpin's Motion to Dismiss or, in the Alternative, Motion for Order to Show Cause. (ECF No. 35.) Defendant filed the Motion on December 19, 2022 and Plaintiff has not responded to it. Defendant's Motion, construed as a Motion for Order to Show Cause, will be granted and Plaintiff will be ordered to show cause with this matter should not be dismissed.

Plaintiff's pro se Complaint was docketed on January 11, 2021. (ECF No. 1.) After granting in part and denying in part a motion to dismiss, the Court appointed the Plaintiff counsel for the limited purpose of discovery. (ECF No. 27.) On November 8, 2021, the Court directed appointed counsel to (1) promptly review the pleadings and advise opposing counsel of his estimated time to complete discovery and (2) contact chambers to advise of the discovery deadline date and further scheduling of the case. (ECF No. 25.) In a February 9, 2022 status report, the parties advised that they had begun such discussions but needed additional time and "expect[ed] that they will have a clearer picture of anticipated discovery in this case by February 25, 2022, and that counsel will contact Chambers on or before that date to advise of the mutually agreeable discovery deadline." (ECF No. 29.) However, the parties did not do so and, prior to the instant

Motion, the last documents filed by the parties were joint motions for entry of a protective order and to seal portions of the Court record, which were filed on February 22, 2022. (ECF Nos. 30, 31.) The Court granted these motions on August 22, 2022. (ECF No. 32.)

Federal Rule of Civil Procedure 41(b) provides that “[i]f the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.” Further, Local Rule 103.8(b) provides that:

If no document has been filed in court in any action for more than nine (9) months, the Court may enter an order asking the parties to show cause why the case should not be dismissed. If good cause is not shown within fourteen (14) days of the entry of the show cause order or such other time as may be set by the Court, the case shall be dismissed without prejudice.

Here, prior to Defendant's instant Motion, filed on December 19, 2022, no document had been filed by the parties since February 22, 2022 and no document had been filed on the docket since August 23, 2022. Therefore, Plaintiff will be directed to show cause why this matter should not be dismissed. Given the limited purpose for which Plaintiff's counsel was appointed and the lack of clarity on the docket regarding the status of the proceedings, both Plaintiff's counsel and Plaintiff himself—Antonio Crosby—will be required to respond to this Order.

Accordingly, it is ORDERED that:

1. Defendant's Motion (ECF No. 35) is GRANTED to the extent that it seeks the issuance of a show cause order;
2. Plaintiff Antonio Crosby and his counsel are DIRECTED TO SHOW CAUSE on or before March 22, 2023 why this matter should not be dismissed; and
3. The Clerk is DIRECTED to mail a copy of this Order to Plaintiff Antonio Crosby.

DATED this 1 day of March, 2023.

BY THE COURT:



James K. Bredar
Chief Judge